

DLD-283

August 9, 2018

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **18-1193**

DANIEL ARTHUR HELEVA, Appellant

v.

SUPERINTENDENT ALBION SCI; ET AL.

(M.D. Pa. Civ. No. 1-07-cv-01398)

Present: JORDAN, SHWARTZ and KRAUSE, Circuit Judges

Submitted are:

- (1) Appellant's motion for a certificate of appealability pursuant to 28 U.S.C. § 2253(c);
- (2) Appellees' response to motion for a certificate of appealability;
- (3) Appellant's motion to amend case caption and change custodian;
- (4) Appellant's motion to take judicial notice;
- (5) Appellant's motion for appointment of counsel;
- (6) Appellant's motion to proceed on the original record;
- (7) Appellees' response to motion to take judicial notice; and
- (8) Appellant's reply to Appellees' response to motion to take judicial notice

in the above-captioned case.

Respectfully,

Clerk

ORDER

Appellant's motion for a certificate of appealability is denied as he has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Appellant has not shown that reasonable jurists would debate the District Court's decision on his claim that counsel was ineffective for failing to raise a violation of his right to a speedy trial where he did not establish an underlying violation. Slack v. McDaniel, 529 U.S. 473, 484 (2000). Appellant also has not shown that he has a meritorious claim under United States v. Cronin, 466 U.S. 648 (1984), that the District Court should have entertained. To the extent Appellant contends that the District Court has yet to adjudicate his "Motion and Brief for Relief from Fraud, Rule 60(b)," which was filed before the District Court decided his habeas petition and advanced arguments in support thereof, the District Court's post-judgment order reflects that it considered the filing in reaching its decision. Appellant's motion to take judicial notice and motion for appointment of counsel are denied. Appellant's motion to proceed on the original record is granted. Appellant's motion to amend the case caption and change custodian is denied. Barden v. Keohane, 921 F.2d 476, 477 n.1 (3d Cir. 1990).

By the Court,

s/ Cheryl Ann Krause
Circuit Judge

Dated: August 22, 2018
JK/cc: Daniel Arthur Heleva
Mark S. Matthews, Esq.



Patricia A. Dodszeuweit

Patricia S. Dodszeuweit, Clerk
Certified Order Issued in Lieu of Mandate